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APPLICATION NO.	1	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/790,279	9 03/01/2004		David Dino	EL-8182	9542	
23911	7590	05/11/2006		EXAM	INER	
CROWELI		RING LLP ROPERTY GROUP	TUCKER, PHILIP C			
P.O. BOX 14300				ART UNIT	PAPER NUMBER	
WASHING	ron, do	N, DC 20044-4300		1712		
				DATE MAILED: 05/11/2006		

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
	10/790,279	DINO, DAVID
Office Action Summary	Examiner	Art Unit
	Philip C. Tucker	1712
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with th	ne correspondence address
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICAT 36(a). In no event, however, may a reply be fill apply and will expire SIX (6) MONTHS is cause the application to become ABANDO	ION. e timely filed from the mailing date of this communication. DNED (35 U.S.C. § 133).
Status		
1) Responsive to communication(s) filed on 06 Ma	arch 2006.	
2a) ☐ This action is FINAL . 2b) ☒ This	action is non-final.	
3) Since this application is in condition for alloward	nce except for formal matters,	prosecution as to the merits is
closed in accordance with the practice under E	x parte Quayle, 1935 C.D. 11	, 453 O.G. 213.
Disposition of Claims		
4)⊠ Claim(s) <u>1-13 and 15-21</u> is/are pending in the a	application.	
4a) Of the above claim(s) is/are withdraw		
5) Claim(s) is/are allowed.		
6)⊠ Claim(s) <u>1-13 and 15-31</u> is/are rejected.		
7) Claim(s) is/are objected to.		
8) Claim(s) are subject to restriction and/or	election requirement.	
Application Papers		
9) The specification is objected to by the Examiner	г.	
10) The drawing(s) filed on is/are: a) acce	epted or b) objected to by the	ne Examiner.
Applicant may not request that any objection to the o	drawing(s) be held in abeyance.	See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correcti	on is required if the drawing(s) is	objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Ex	aminer. Note the attached Off	ice Action or form PTO-152.
Priority under 35 U.S.C. § 119		
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of:	priority under 35 U.S.C. § 119	9(a)-(d) or (f).
1. Certified copies of the priority documents	s have been received.	
2. Certified copies of the priority documents		cation No
3. Copies of the certified copies of the prior	ity documents have been rece	eived in this National Stage
application from the International Bureau	(PCT Rule 17.2(a)).	
* See the attached detailed Office action for a list of	of the certified copies not rece	ived.
Attachment(s)		
1) Notice of References Cited (PTO-892)	4) Interview Summ	
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	Paper No(s)/Mai 5) Notice of Inform	al Pate al Patent Application (PTO-152)
Paper No(s)/Mail Date	6) Other:	. ,

Application/Control Number: 10/790,279

Art Unit: 1712

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- 2. Claims 1-5, 7, 9-13 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Lenaerts (6607748).

Lenaerts teaches a crosslinked high amylose starch containing 70% amylase, which is used to form a tablet. The tablet may contain various biopolymers, including xanthan and celluloses, and clays (column 12, line 36- column 13, line 6). Example 7 teaches the dissolution of a tablet of Table 1 in an aqueous medium, specifically exemplifying xanthan. Applicants intended use as a drilling fluid does not distinguish over the prior art. Applicant's method of making, such as in claims 5 and 13 does not distinguish over the prior art (In re Thorpe 227 USPQ 964).

Claim Rejections - 35 USC § 103

- 1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Application/Control Number: 10/790,279

Art Unit: 1712

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-10, 12, 13 and 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 02/12414 in view of Chesser (6933262).

WO 02/12414 teaches a drilling fluid which comprises a high amylase starch. Starch is a biopolymer and thus satisfies the requirements of the claim. WO '414 teaches that such starch may comprise "at least 30%", and teaches corn which comprises about 70%, which would render the "at least 50%" and "at least 70%" of the present invention obvious to one of ordinary skill in the art (column 3, lines 8-21). WO teaches that the starch may be crosslinked (see claim 6). WO '414 further teaches that the starch may be stabilized by means known in the art, including chemical modification (page 5, lines 20-25 and column 4, lines 12-16). WO '414 differs from the present invention in that the use of carboxymethyl or hydroxypropyl groups as substituents is not disclosed. Chesser teaches that starches may be substituted (derivatized) with carboxymethyl or hydroxypropyl groups, which renders them inherently nonfermentable (column 3, lines 13-34). It would be obvious to one of ordinary skill in the art to further stabilize the starches of WO '414 by carboxymethyl or hydroxypropyl substitution, given the teaching of Chesser that such stabilizes the starch to fermentation, and in view of the teaching of WO '414 that the starches may be stabilized by known means in the art. Applicant's method of making, such as in claims 5 and 13 does not distinguish over the prior art (In re Thorpe 227 USPQ 964).

Page 4 Application/Control Number: 10/790,279

Art Unit: 1712

3. Applicants amendment has been noted. Further consideration of the term "biopolymer" is made in the current office action. It is noted that starch, cellulose and other polymers are considered "biopolymers" (see US 2004/0241382 paragraph 0022), and as such the rejection over WO '414 in view of Chesser is maintained. A new rejection is presented herein.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C. Tucker whose telephone number is 571-272-1095. The examiner can normally be reached on Monday - Friday, Flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

> Philip C Tucker Primary Examiner Art Unit 1712